FILED
JUL 14 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff,	)	Mag. Case No. '08 MJ 8635
	)	COMPLAINT FOR VIOLATION OF:
v.	)	
	)	Title 8, U.S.C., Section 1324 (a)(1)(A)(ii) -Illegal Transportation of Alien(s)
Francisco Javier MORELOS-Alvarez (1), Gustavo MENDOZA-Pena (2),	)	Title 18, U.S.C., Section 2 – Aiding and Abetting.
Defendant	)	

The undersigned complainant, being duly sworn, states:

On or about July 12, 2008, within the Southern District of California, defendant Francisco Javier MORELOS-Alvarez and Gustavo MENDOZA-Pena, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, Ivan ROJAS-Morales, Mario Alberto DIAZ-Ortega and Carlos CHARRE-Yata had come to, entered or remained in the United States in violation of law, did transport or move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii) and Title 18 U.S..C Section 2.

And the complainant states that this complaint is based on the attached statement of facts which, is incorporated herein by reference.

Senior Border Patrol Agent

SWORN TO BEFORE AND SUBSCRIBED IN MY PRESENCE THIS 14th DAY OF JULY 2008.

Peter C. Lewis
United States Magistrate Judge

DEFENDANTS: Francisco Javier MORELOS-Alvarez (1)
Gustavo MENDOZA-Pena (2)

I, Senior Border Patrol Agent Mikuski declare under penalty of Perjury, the following is true and correct:

PROBABLE CAUSE STATEMENT

The complainant states that this complaint is based upon statements in the investigative reports that on July 12, 2008, the defendants, Francisco Javier MORELOS- Alvarez and Gustavo MENDOZA-Pena both citizens of Mexico, were apprehended near Calexico, California, along with (6) six undocumented aliens from Mexico, in violation of law.

At approximately 11:00 a.m. U.S. Border Patrol Agent's received information from the Calexico Border Patrol Station's Remote Video Surveillance System Operator (RVSS) that a group of seven individuals illegally crossed the international boundary with Mexico east of Calexico, California.

Agent J. Vega-Torres was able to see one individual, later identified as Gustavo MENDOZA-Pena, wearing a white t-shirt running up front of the group making hand gestures and waving to the rest of the group as they followed him. After the group hid, a Ford Explorer approached the group, MENDOZA and the rest of the group boarded the Ford. Agents were able to follow the Ford as it left the area and drove north away from the border area. Using the emergency equipment on his border Patrol vehicle, Agent Vega-Torres attempted to stop the Ford. The driver, later identified as Francisco Javier MORELOS-Alvarez, failed to yield. A controlled tire deflations device was successfully deployed against the Ford; however MORELOS still failed to yield. MORELOS finally stopped one half mile later. Agent Vega-Torres and Castaneda approached the Ford and found MORELOS still seated behind the drivers seat of the Ford. The agents questioned the occupants of the Ford and determined MORELOS, MENDOZA and the others are citizens of Mexico illegally in the United States. All occupants were placed under arrest.

At the Station, MENDOZA was advised of his rights per Miranda and stated he understood his rights and was willing to talk with agents without and attorney present. MENDOZA stated he was hired by "Grenas" in Mexicali, Mexico to guide a group of illegal aliens into the United States. MENDOZA stated he was going to be paid $100 per illegal alien. MENDOZA stated after boarding the Ford, he was instructed by the driver, MORELOS, to duck down and stay out of sight. MENDOZA stated he heard the sirens behind them but MORELOS continued to drive.

MENDOZA was shown a six pack photo line up and identified photo number one, MORELOS, as the driver of the Ford.

Material Witnesses Ivan ROJAS-Morales, Carlos CHARRE-Yata and Mario Alberto DIAZ-Ortega all stated arrangements were made with a smuggler in Mexico to pay $2200 to $2800 to be smuggled into the United States.

ROJAS, CHARRE and DIAZ identified photo number one, MORELOS, from photo lineup number one as the driver of the Ford.

ROJAS, CHARRE and DIAZ identified photo number two, MENDOZA, from photo line up number two as the person that guided them across the border into the United States.

The complainant states that the names of the Material Witnesses are as follows:

NAME	PLACE OF BIRTH
Ivan ROJAS-Morales	Mexico
Mario Alberto DIAZ-Ortega	Mexico
Carlos CHARRE-Yata	Mexico

DEFENDANTS: Francisco Javier MORBLOS Alvarez (1)
Gustavo MENDOZA-Pena (2)

Further, complainant states that Ivan ROJAS-Morales, Mario Alberto DIAZ-Ortega and Carlos CHARRE-Yata are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

Executed on July 13, 2008, at 9:15 A.M.

Michael Mikuski
Senior Border Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 2 page, I find Probable Cause to believe that the defendant named in this probable cause statement committed the offense on July 12, 2008 in violation of Title 8, United States Code, 1324 and Title 18 United States Code, section 2.

7/13/08 @ 9:35 am
Date/Time

Honorable Cathy A. Bencivengo
United States Magistrate Judge

TOTAL P.01